

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, DECEMBER 7, 2004

The Council of the City of San Jose convened in Regular Session at 9:36 a.m. in Council Chambers at City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, Dando, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: Gregory (Excused).

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:33 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of In Re: Dabanian, Henthorn v. City of San José, Gross & Holmes v. All Persons Interested, et al., City of San José, et al., v. County of Santa Clara, et al.. (B) to confer with Legal Counsel regarding anticipated litigation (a) of a matter where there is significant exposure to litigation pursuant to subsection. (C) Public Employee Performance Evaluation pursuant to Government Code Section 54957: Titles: City Clerk, City Attorney, City Clerk, City Auditor, and Independent Police Auditor.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:40 a.m. and reconvened at 1:36 p.m. in Council Chambers, City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, Dando, Gegory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

INVOCATION (MAYOR)

Holy Spirit School performed a song presentation, titled: "Thankful for the U.S.A."

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Dando, seconded by Council Member Chavez, and unanimously carried, the Orders of the Day and Amended Agenda were approved. (11-0).

CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to San José Police officers who volunteered their time and energy at the 2004 Susan G. Komen Breast Cancer Walk. (Chavez)**
(Rules Committee referral 11/24/04)

Action: This item was deferred to January.

- 1.3 Presentation of commendation to the Staff of HOPE Services for their dedication and hard work in providing essential service and care to adults with developmental disabilities.**
(Rules Committee referral 11/24/04)

Action: Mayor Gonzales was joined by Council Member Williams at the podium to present a commendation to Scott McNaire and Ruby Sandalvez of HOPE services for their dedication and hard work in providing essential services and care to adults with the developmental disabilities.

CONSENT CALENDAR

Upon motion by Council Member Chavez, seconded by Council Member Yeager and unanimously carried, the Consent Calendar was approved as indicated with the exception of, Item 2.4 (pulled by Council Member Gregory and Item 2.6 was pulled by Vice Mayor Dando) (11-0).

- 2.1 (a) Regular Minutes of September 21, 2004.**
(b) Regular Minutes of September 28, 2004.
(c) Joint City Council/Financing Authority Minutes of September 28, 2004
(d) Regular Minutes of October 5, 2004.
(e) Joint City Council/Redevelopment Agency Board Minutes of October 5, 2004

Documents Filed: (1) Regular minutes of September 21, 2004. (2) Regular minutes of September 28, 2004. (3) Joint City Council/Financing Authority minutes of September 28, 2004. (4) Regular minutes of October 5, 2004. (5) Joint City Council/Redevelopment Agency Board minutes of October 5, 2004.

Action: The Regular minutes of September 21, 2004, September 28, 2004, October 5, 2004 and the Joint City Council/Financing Authority minutes of September 28, 2004 and Joint City Council/Redevelopment Agency Board Minutes of October 5, 2004 were approved. (11-0).

- 2.3 Approval of the third amendment to the agreement with GreenTeam of San José for Recycle Plus Integrated Waste Management Services, to convert the successful compostable pilot program at multi-family properties into a permanent ongoing service, at no additional cost to the City. CEQA: Negative Declaration, PP92-05-98. (Environmental Services)**

2.3 (Cont'd.)

Documents Filed: None.

Action: This item was deferred to December 14, 2004.

2.4 **Adoption of a resolution amending the 2004-2005 Schedule of Fees and Charges to establish the Pricing structure for the *Libraries – the San José way* consulting program under development by the Library Department. CEQA: Not a Project. (Library/City Manager's Office)**

Documents Filed: Memorandum from Library Director Jane Light, dated November 15, 2004, recommending adoption of the resolution.

Public Comments: William Garbett spoke in disapproval of the proposed pricing structure.

Action: Resolution No. 72410, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72165 to Establish Fees for the *Libraries – The San José Program*", was adopted. (11-0).

2.5 **Adoption of a resolution:**

- (a) **Accepting the 2004-2005 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Resource Management; and**
- (b) **Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance; and**
- (c) **Directing the Santa Clara County Department of Agriculture and Resource Management to mail notices of a public hearing before the City Council, on January 11, 2005 at 1:30 p.m., on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building, and Code Enforcement Stephen Haase, dated November 19, 2004, recommending adoption of the resolution.

Action: Resolution No. 72411, entitled: "A Resolution of the Council of the City of San José Accepting and Confirming the Hazardous Vegetation Commencement Report for the Year 2004-2005 Compiled by the Santa Clara County Department of Agriculture and Resource Management; Declaring Certain Noxious or Dangerous Seasonal and Recurrent Weeds are Growing or are Likely to Grow Upon Certain Public and Private Properties or That Refuse is Situated or Likely to be Situated Upon Certain Properties Within the City

2.5 (Cont'd.)

of San José; Declaring Such Seasonal and/or Recurrent Weeds and Refuse a Public Nuisance; and Directing that Notice of this Resolution and a Public Hearing on the Report on January 11, 2005 at 1:30 p.m. be Given Pursuant to Chapter 9.12 of the San José Municipal Code”, was adopted. (11-0).

2.6 Report on bids and award of contract for the Fontana Dog Park to the low bidder, Jensen Corporation Landscape Contractor, to include the base bid and Add Alternate No. 1 in the amount of \$228,388, and approval of a contingency in the amount of \$12,000. CEQA: Exempt, PP04-03-088 Council District 10. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated November 22, 2004, recommending the report on bids and award of contract.

Action: The report on bids and award of contract was approved.

2.7 Approval of an ordinance to impose limits until October 30, 2005 on both the total number of taxicabs that all taxicab company licensees are authorized to operate under their licenses, pursuant to Part 4 of Chapter 6.64 of San José Municipal Code to 572 and the number of taxicab driver permits issued pursuant to Part 6 of Chapter 6.64 of the San José Municipal Code to 571. CEQA: Not a Project. (City Attorney's Office) (Rules Committee referral 12/1/04)

Documents Filed: None.

Action: This item was deferred to January 2005.

STRATEGIC SUPPORT SERVICES

3.4 Adoption of a resolution declaring the results of the November 2, 2004 Municipal Election , pursuant to Elections Code Section 15400. (City Clerk) (Rules Committee referral 11/24/04)

Documents Filed: Memorandum from City Clerk Lee Price, dated December 5, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Council Member Dando, and unanimously carried, Resolution No. 72412, entitled: “Resolution of the Council of the City of San José Reciting that a Regular Municipal Election Was Held in the City of San José on Tuesday, November 2, 2004, which was Consolidated with the General Election on that Date; Stating the Office to be Filled at the Election; Finding and

3.4 (Cont'd.)

Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election, and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast in the City, the Name of the Person Voted for, the Office the Person was Voted for, the Number of Votes Given at Each Precinct to Each Person; Finding and Declaring that Nancy Pyle was Elected to the Office of Member, City Council, District 10; and Stating the Measure Voted On, the Number of Votes Given at Each Precinct for the Measure and Determining that a Required Number of the Qualified Voters Voted in Favor of Measure S", was adopted. (11-0).

3.5 **Adoption of a Council Policy revising the process for selecting architectural, landscape architectural, engineering, environmental, land surveying, and construction project management consultants to provide professional services on capital projects. CEQA: Not a Project. (Public Works)** **(Deferred from 11/9/04 – Item 3.5 et al, and 11/30/04 – Item 3.4)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated December 2, 2004, recommending adoption of the Council Policy revisions.

Discussion: Council Member Chavez requested staff to return to Council with further information pertaining to outreach for the small business community, per an informational memorandum.

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and unanimously carried, Resolution No. 72413, entitled: "A Resolution of the Council of the City of San José Approving a City Council Policy Revising the Process for Selecting Consultants that Provide Architectural, Landscape Architectural, Engineering, Environmental, Land Surveying and Construction Management Services", was adopted. (11-0).

- 3.6 (a) **Adoption of a resolution by City Council authorizing the City Manager to negotiate and execute a contract from December 7, 2004 to June 30, 2005 in an amount not to exceed \$440,220 with BearingPoint, Inc. to participate in Stage 1 of the CUSP Project, which includes a comprehensive business process gap fit readiness analysis related to the ultimate installation and implementation of CUSP.**
- (b) **Adoption of a resolution by City Council authorizing the City Manager to negotiate and execute a Customer Information System (CIS) consultant services contract from December 7, 2004 to June 30, 2005 in an amount not to exceed \$361,830 with Blue Heron Consulting to assist City staff with Stage 1 of the CUSP Project, which includes providing the City with an independent, third party overview and analysis of a comprehensive business process gap fit readiness analysis and contract negotiations related to the City's development of the BearingPoint contract scope of services for Stage 2 of the CUSP Project.**

(Continued on next page)

- 3.6**
- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute Amendments to the Software License and Services Agreements with PeopleSoft for the City's previously licensed supportable PeopleSoft modules. (Cont'd.)**
 - (d) Adoption of a resolution authorizing the City Manager to negotiate and execute a Software License and a Services Agreement with PeopleSoft for CUSP related modules in an amount not to exceed \$2,000,000 for the first year, and**
 - (e) Adoption of the following appropriation ordinance and funding sources resolution amendments by City Council to:**
 - (1) Increase the estimate for Earned Revenue in the Integrated Waste Management Fund by \$4,389,242.**
 - (2) Establish a CUSP Project appropriation to the Finance Department in the Integrated Waste Management Fund in the amount of \$4,389,242.**
- CEQA: Not a Project. (Finance/City Manager's Office)**
(Deferred from 10/5/04 et al, and 11/30/04 – Item 3.6)

Documents Filed: Supplemental memorandum from Finance Director Scott P. Johnson and Budget Director Larry D. Lisenbee, dated December 3, 2004, recommending the adoption of the resolutions.

Discussion: Council Member Williams asked staff to track the savings and incentives for utilizing the proposed system. Council Member LeZotte voiced some concerns about the potential acquisition of PeopleSoft by Oracle. Staff agreed to monitor as well as, provide follow-up information relating to pending review of possible conflicts of interest by two Blue Heron employees.

Public Comments: William Garbett and Ross Signorino issued on the proposed project.

Action: Upon motion by Council Member Chavez, seconded by Council Member Dando, and unanimously carried, Ordinance No. 27304, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Integrated Waste Management Fund for the CUSP Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72414, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Contract from December 7, 2004 to June 30, 2005 in an Amount Not to Exceed \$440,220 with Bearingpoint, Inc. to Participate in Stage 1 of the Customer Service and Performance Management System (CUSP) Project", Resolution No. 72415, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Customer Information System (CIS) Consultant Services Contract from December 7, 2004 to June 30, 2005 in an Amount Not to Exceed \$361,830 with Blue Heron Consulting to Assist the City with Stage 1 of the Customer Service and Performance Management System (CUSP) Project", Resolution No. 72416, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to the Software License and Services Agreements with PeopleSoft for the City's Previously Licensed Supportable PeopleSoft

3.6 (Cont'd.)

Modules”, Resolution No. 72417, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Software License and a Services Agreement with PeopleSoft for CUSP Related Modules in an Amount Not to Exceed \$2,000,000 for the First Year”, and Resolution No. 72418, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Integrated Waste Management Fund”, were adopted. (10-0). Absent: Campos.

RECREATION & CULTURAL SERVICES

- 5.3 Approval of an agreement with Group 4 Architects, Research and Planning, Inc. for consultant design services for the Roosevelt Community Center - Multi-Service Project in an amount not to exceed \$1,798,887 from the date of execution of the agreement to December 31, 2008. CEQA: Mitigated Negative Declaration, PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/Parks, Recreation and Neighborhood Services) (Rules Committee referral 12/1/04)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated December 2, 2004, recommending approval of the agreement.

Action: Upon motion by Council Member Chavez, seconded by Council Member Dando, and unanimously carried, the agreement was approved. (10-0). Absent: Campos.

Council Member Gregory left the City Council meeting at 2:44 p.m.

AVIATION SERVICES

- 8.1 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with Corlett, Skaer and DeVoto Architects, Inc. for consultant services related to noise attenuation of properties located within the Noise Impact Area, increasing the compensation by \$3,314,585 to \$7,330,066, and extending the term of the agreement from December 31, 2005 to June 30, 2007. CEQA: Resolution Nos. 67380 and 71451, PP 04-307. (Airport)**

- 8.1 (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute a third amendment to the agreement with Corlett, Skaer and DeVoto Architects, Inc., for consultant services related to noise attenuation of properties located within the Noise Impact Area, extending the term of the agreement from December 30, 2004 to December 31, 2005, with no increase in total compensation. CEQA: Resolution Nos. 67380 and 71451, PP 04-308. (Airport) (Cont'd.)**
- (c) **Adoption of a resolution authorizing the City Manager to negotiate and execute a fourth amendment to the agreement with Charles M. Salter Associates for consultant services related to noise attenuation and acoustical testing of properties located within the Noise Impact Area, extending the term of the agreement from December 30, 2004 to December 31, 2006, with no increase in total compensation. CEQA: Resolution Nos. 67380 and 71451, PP 04-309. (Airport)**

Documents Filed: (1) Memorandum from Ralph G. Tonseth, dated November 15, 2004, recommending the adoption of the resolution to negotiate and execute the first amendment. (2) Memorandum from Ralph G. Tonseth, dated November 15, 2004, recommending adoption of a resolution to negotiate and execute a third amendment. (3) Memorandum from Ralph G. Tonseth, dated November 15, 2004, recommending the adoption of a resolution to negotiate and execute a fourth amendment.

Action: Upon motion by Council Member Chavez, seconded by Council Member Dando, and unanimously carried, Resolution No. 72419, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with Corlett, Skaer, and Devoto Architects, Inc. for Consultant Services Related to Noise Attenuation of Properties Located Within the Noise Impact Area, Increasing the Compensation by \$3,314,585 and Extending the Term to June 30, 2007", Resolution No. 72420, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Agreement with Corlett, Skaer & Devoto Architects, Inc. for Consultant Services Related to Noise Attenuation of Properties Located Within the Noise Impact Area, Extending the Term to December 31, 2005 with No Increase in Total Compensation", and Resolution No. 72421, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Charles M. Salter Associates for Consultant Services Related to Noise Attenuation and Acoustical Testing of Properties Located Within the Noise Impact Area, Extending the Term to December 31, 2006, with No Increase in Total Compensation", were adopted. (10-0-1). Absent: Gregory.

- 8.2 **Adoption of a resolution approving a Minor Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to increase the estimated size of terminal building space needed to adequately accommodate projected passenger demand from a total of 1,075,000 square feet to 1,700,000 square feet of enclosed building space. CEQA: Resolution Nos. 67380 and 71451, PP04-305. (Airport)**
- [Deferred from 11/16/04 – Item 8.1(d)]**

8.2 (Cont'd.)

Documents Filed: None.

Action: This item was deferred to January 25, 2005.

- 8.3 Approval of a master agreement with Carter & Burgess, Inc. for architectural consultant services for the Airline Maintenance Facility Project in an amount not to exceed \$750,000, from November 30, 2004 to December 31, 2007. CEQA: Resolution Nos. 67380 and 71451, PP 04-292. (Public Works/Airport) (Deferred from 11/30/04 – Item 8.1)**

Documents Filed: None.

Action: This item was deferred to December 14, 2004.

- 8.4 Approval of the following policy direction in the development of the Airport's North Concourse Concession Program:**

- (a) A single prime operator for the food and beverage element of the North Concourse.**
 - (b) One or two prime operators for the retail portion of the North Concourse.**
- CEQA: Not a Project. (Airport)**

(Deferred from 11/16/04 – Item 8.1(b) and 11/30/04 – Item 8.3)

Documents Filed: None.

Action: This item was deferred to December 14, 2005.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:45 P.M. to consider Items 10.1 and 10.2 in a Joint Session.

- 10.1 (a) Adoption of resolutions by City Council and Agency Board authorizing City Manager and Redevelopment Agency Executive Director to negotiate and execute a Cooperation Agreement between the City and Agency transferring \$250,000 of Agency funds to the City for the Financing of the modifications to the Parking Lot at the HP Pavilion to accommodate the San José Grand Prix Race Circuit, and making certain findings regarding the construction of these public facilities.**
- (b) City Council adoption of appropriation ordinance amendments in the Economic Development Enhancement Special Fund as follows:**
- (1) Establish an appropriation to transfer \$400,000 to the General Fund for the San José Grand Prix;**
 - (2) Decrease the Ending Fund Balance by \$400,000;**

- 10.1 (c) City Council adoption of appropriation ordinance and funding sources resolution amendments in the General Fund as follows: (Cont'd.)**
- (1) Establish a capital appropriation in the amount of \$975,000 for the San José Grand Prix;**
 - (2) Increase the earned revenue estimate for Other Revenues by \$325,000 to recognize funding from the Sports Authority;**
 - (3) Increase the earned revenue estimate for Transfers by \$650,000 to recognize funding from the Economic Development Enhancement Fund and the San José Redevelopment Agency.**
- (d) City Council approval of an agreement with Canary Enterprises LLC, San José Arena Management LLC, and the San José Sports Authority for the conduct of a San José Grand Prix, an annual road race in the vicinity of HP Pavilion for a five-year term with three five-year options, with a combined City/Agency Contribution toward required modifications of the parking lot at the HP Pavilion in the amount of \$650,000.**
- (e) If the City Council approves the proposed agreement with Canary Enterprises LLC, San José Arena Management, and the San José Sports Authority for the conduct of a San José Grand Prix, that it concurrently adopt a resolution doing the following:**
- (1) Finding that publicly bidding the right-of-way improvement work that needs to be completed to the Race Car Circuit would be an “idle act” because, pursuant to the Agreement, Canary Enterprises is agreeing to construct and pay for these improvements using private funds; and**
 - (2) Waiving the requirement that Canary Enterprises obtain a performance bond for the right-of-way improvement work to the race car circuit that it is agreeing to construct and pay for pursuant to the Agreement.**

CEQA: PP04-324; Resolutions: No. 68839 Downtown Strategy Plan; No. 60199 San José Arena Facility; No. 71952 San José Water Company Rezoning. Council District 3. (City Manager's Office/Redevelopment Agency)

Documents Filed: Memorandum from City Manager Del D. Borgsdorf and Executive Director of the Redevelopment Agency Harry Mavrogenes, dated December 3, 2004, recommending adoption of the appropriation ordinances and resolutions.

Public Comments: Sandy Christiansen and William Garbett expressed concerns regarding the vicinity of the raceway.

Jim Tucker, Neil Struthers, Victor M. Arranaga, Dean Munro, Don Gralnek, and Cyril Isnard expressed support of the proposed raceway.

Discussion: Council Member Chavez asked staff to increase neighborhood outreach to address resident concerns and to provide translators for the December 15, 2004 Community Meeting.

10.1 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member LeZotte, and unanimously carried, Ordinance No. 27305, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Economic Development Enhancement Fund for the Transfer to the General Fund; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Ordinance No. 27306, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund for the San José Grand Prix; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72422, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Cooperation Agreement Between the City and the Redevelopment Agency of the City of San José Transferring \$250,000 of Agency Funds to the City for the Financing of the Modifications to the Parking Lot at the HP Pavilion to Accommodate the San José Grand Prix Race Circuit, and Making Certain Findings Regarding the Construction of These Facilities", Resolution No. 72423, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund", Resolution No. 72424, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Canary Enterprises, LLC, San José Arena Authority for the Conduct of a San José Grand Prix, an Annual Road Race in the Vicinity of HP Pavilion for a Five-Year Term with Three Five-Year Options, with a Combined City/Agency Contribution Toward Required Modifications of the Parking Lot at the HP Pavilion in the Amount of \$650,000", and Resolution No. 72425, entitled: "A Resolution of the Council of the City of San José Finding That Solicitation of Bids for Right-Of-Way Improvements for the San José Grand Prix Race Circuit Would Be An Idle Act Under San José Charter Section 1217 and Municipal Code Section 14.04.170, and Waiving the Requirement for a Performance Bond for the Right-Of-Way Improvements", were adopted. (10-0-1). Absent: Gregory.

10.2 Approval of actions for the salary and benefits of the Executive Director, Redevelopment Agency:

- (a) Adoption of a resolution by the City Council appointing Harry Mavrogenes to the class of Redevelopment Manager (U).**
- (b) Adoption of a resolution by the Agency Board approving salary and benefits for the Executive Director.**

(Mayor)

(Rules Committee referral 12/1/04)

Documents Filed: (1) Memorandum from Mayor Ron Gonzales, dated December 6, 2004, attacking replacement resolution language for Salary and Benefit Actions for the Redevelopment Agency Executive Director. (2) Memorandum from Mayor Ron Gonzales, dated December 1, 2004, recommending approval of the resolutions.

10.2 (Cont'd.)

Action: Upon motion by Council Member Dando, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72426, entitled: "A Resolution of the Council of the City of San José Appointing Harry Mavrogenes to the Classification of Redevelopment Manager (U) Effective November 16, 2004, and Agency Resolution No. 5560, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving Salary and Benefits for Executive Director Harry Mavrogenes", were adopted. (10-0-1). Absent: Gregory.

The Redevelopment Agency Board portion of the meeting adjourned at 3:27 P.M.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9638	Northwest corner of Campbell Avenue and Woodglen Drive	1	Summerhill Homes	35 units	SFDR	Approve
9464	Eastside of North White Road North of Eastside Drive	5	White Road Townhomes LLC	12 units	SFA	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:
None.

OPEN FORUM—

Ross Signorino spoke on issues pertaining to changing building codes and the addition of Women's restrooms in City and County facilities.

RECESS/RECONVENE

The City Council recessed at 6:15 p.m. and reconvened at 7.10 p.m. Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Gregory (excused).

The City Clerk Lee Price, read the requests for continuances of applications and other actions as recommended. Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and unanimously carried, the below noted continuances were granted. (10-0-1). Absent: Gregory.

CEREMONIAL ITEMS

- 1.1 Presentation of plaques to Chandra Agrawal, for three years and four months of service on the Senior Citizens Commission and to Natasha Ogunnupe, for two years and three months of service on the Youth Commission. (Mayor)**
(Rules Committee referral 11/24/04)

Action: Mayor Gonzales presented plaques to Natasha Ogunnupe, for two years and three months of service on the Youth Commission and to Chandra Agrawal, who could not attend, for three years and four months of service on the Senior Citizens Commission. Ms. Agrawal will be sent her plaque.

- 1.4 Presentation of a commendation to the Vietnamese American Public Research Institute (VAPRI) for their efforts to inform the Vietnamese Community on political issues and assisting Vietnamese Americans in registering to vote. (Cortese)**
(Orders of the Day)

Action: Mayor Gonzales and Council Member Cortese presented a commendation to the Vietnamese American Public Research Institute (VAPRI) for their efforts to inform the Vietnamese Community on political issues and assisting Vietnamese Americans in registering to vote.

PUBLIC HEARINGS

(Heard by the City Council at 7:10 p.m.)

- 11.1 Public Hearing on and consideration of approval of an ordinance on Planning Director -Initiated Conventional Rezoning of the area generally bounded by East Santa Clara Street to the north, 30th Avenue to the east, San Antonio Street and William Street to the south, and South 22nd Street to the west, from LI Light Industrial and CP Pedestrian Commercial Zoning Districts to R-2 Two-Family Residence District to reflect residential uses on a 31.34 gross acre site. CEQA: Resolution No. 65459. SNI: Five Wounds/ Brookwood Terrace. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
C 04-039 - District 3
(Continued from 6/1/04 – Item 11.11 et al., and 11/9/04 – Item 11.1)**

Documents Filed: (1) Memorandum from Council Member Chavez, dated December 7, 2004, recommending approval of the proposed rezoning as amended by the Planning Staff. (2) Memorandum from Director for Planning, Building and Code Enforcement Stephen Haase, dated November 24, 2004, providing updated information regarding changes to the proposed rezoning and proposed districts. (3) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 14, 2004, recommending approval of the proposed ordinance. (4) Proof of publication of Notice of Public Hearing, executed on August 17, 2004, submitted by the City Clerk

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, Ordinance No. 27307, entitled: “An Ordinance of the City of San José Rezoning Certain Real Properties Situated in the Five Wounds-Brookwood Terrace Strong Neighborhood Initiative Area and Generally Bounded by East Santa Clara Street to the North 30th Street to the East, San Antonio Street and William Street to the South, and South 22nd Street to the West from LI Light Industrial and CP Pedestrian Commercial to CP Pedestrian Commercial and to R-2 Two-Family Residence Zoning Districts, All As More Specifically Described Herein”, was passed for publication and Council approved Council Member Chavez’ memorandum, dated December 7, 2004, recommending approval of the proposed rezoning, as amended by the Planning Staff. (9-0-2). Absent: Gregory, LeZotte.

- 11.3 Public Hearing on and consideration of approval of an ordinance on Conventional Rezoning from R-1-8 Residential Zoning District to CP Commercial Pedestrian Zoning District, to allow commercial/ retail uses on a 1.29 gross acre site, located at/on the west side of North White Road, approximately 300 feet south of McKee Road (253 N. White Rd.). (Rumi Group, LLC, Owner). CEQA: Negative Declaration.
C04-083 - District 5**

Documents Filed: None.

Action: This item was continued to December 14, 2004.

- 11.4 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow demolition of the existing restaurant and construction of up to 5,500 square feet for commercial uses on a 0.46 gross acre site, located at/on the southwest corner of West Hedding Street and Coleman Street (879 Coleman Ave.). (Pinn Brothers Properties Limited Partnership, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC04-053 - District 3**

Documents Filed: (1) Memorandum from Council Member Chavez, dated December 7, 2004, recommending approval of the proposed rezoning, as recommended by the Planning Commission. (2) Memorandum from Director of Planning, Building and Code Enforcement, dated November 12, 2004, recommending adoption of the ordinance. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-053, dated November 2, 2004, recommending approval of the planned development rezoning.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, Ordinance No. 27308, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of West Hedding Street and Coleman Street (879 Coleman Ave.) to A(PD) Planned Development Zoning District", was passed for publication and Council moved approval of Council Member Chavez' memorandum, dated December 7, 2004, recommending approval of the proposed rezoning, as recommended by the Planning Commission. (9-0-2). Absent: Gregory, LeZotte.

- 11.6 Public Hearing on and consideration of approval of an ordinance on a Conventional Rezoning from LI Light Industrial Zoning District to CG Commercial General Zoning District to allow Commercial uses on a 0.61 gross acre site, located at/on the southeast corner of North Fourth Street and Koll Circle (1516 North Fourth Street) (Fong Lawrence Trustee et al, Owner). CEQA: Resolution No. 65459.
C04-081 - District 3**

Documents Filed: None.

Action: This item was dropped. Heard by Council on November 16, 2004.

- 11.7 Public Hearing on and consideration of approval of an ordinance for Planned Development Rezoning from R-2 Residential Zoning District to A(PD) Planned Development Zoning District to allow up to 24 single-family attached residences on a 1.10 gross acre site, located on the south side of San Antonio Road approximately 270 feet easterly of King Road (1716 E. San Antonio Street). (Volunteers of America Bay Area Inc., Owner; Core Development, Developer). SNI: Mayfair. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1).
PDC04-052 - District 5**

11.7 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Campos, dated December 7, 2004, recommending approval of the proposed rezoning. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated December 6, 2005, providing additional exhibit for PDC04-076. (3) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 18, 2004, recommending adoption of the ordinance. (4) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-052, dated November 10, 2004, recommending approval of the planned development rezoning.

Action: Upon motion by Council Member Campos, seconded by Council Member Cortese, and unanimously carried, Ordinance No. 27309, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the South Side of San Antonio Street, Approximately 270 Feet Easterly of King Road to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1). Absent: Gregory.

11.8 Public Hearing on and consideration of approval of Conservation Area Designation request to designate as a Conservation Area the area approximately bounded by the rear of properties on Balbach Street to the north, the rear of properties on South Market to the East, Highway 280 to the south, and Almaden Avenue to the west on a 10.5 acre site. (Various Owners/City of San José, Applicant). CEQA: Exempt. SNI: Market/Almaden CA04-001 - District 3

Documents Filed: None.

Action: This item was continued to December 14, 2004.

11.9 Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning of the property located at the southeast corner of Branham Lane and Birkenshaw Place (4558 Birkenshaw Pl.), from R-1-1 Residence Zoning District to R-1-8 Residence Zoning District, on a 0.23 gross acre site. (Lin Mon F, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. C 04-079 - District 10

Documents Filed: None.

Action: This item was continued to January 11, 2005.

GENERAL PLAN PUBLIC HEARINGS

- 12.1 (a) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT** request to change the Land Use/Transportation Diagram designation from Light Industrial to Medium Density Residential (8-16 DU/AC) on 3.4-acres and Medium High Density (12-25 DU/AC) on 3.5-acres for property bounded by Julian Street to the north, North 27th Street to the east, East Santa Clara Street to the south and North 26th Street to the west, on a 6.9-acre site. (City of San José, Applicant). SNI: Five Wounds/Brookwood Terrace.
GP03-03-13 - District 3

Documents Filed: None.

Action: This item was dropped.

- (b) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT** request to change the Land Use/Transportation Diagram destination from Light Industrial to Medium Density Residential (8-16 DU/AU) for property located on the southeast corner of Marburg Way and Highway 101 on a 3.24-acre site. (Borrelli Investment Company, Owner/Ray Hashimoto, Applicant). SNI: Five Wounds/Brookwood Terrace.
GP03-03-16 - District 3

Documents Filed: None.

Action: This item was dropped, to be renoticed.

- (c) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT** request to change the Land Use/Transportation Diagram designation from Industrial Park to Transit Corridor Residential (20+ DU/AC) for property located on the north side of Berryessa Road, west of the Union Pacific Railroad Tracks on a 13.5-acre site. (Facchino Robert B&B II, Owner/City of San José, Applicant).
GP03-04-08 - District 4

Documents Filed: None.

Action: This item was dropped, to be renoticed.

- (d) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT** request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Medium High Density Residential (12-25 DU/AC) for property located on the northwest corner of Blossom Hill Road and Blossom Avenue on a 14.4-acre site. (Santa Clara Valley Transit Authority et al, Owner/ City of San José, Applicant).
GP03-10-02 - District 6

12.1(d)(Cont'd.)

Documents Filed: None.

Action: This item was dropped, to be renoticed.

Items 11.5 and 12.1(e) were heard concurrently.

- 11.5 Public Hearing on and consideration of approval of an ordinance of a Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 80 single-family detached residences on an 8.0 gross acre site, located at the northeast corner of Bonita Avenue and Sunny Court (370 Bonita Avenue) (California Cheese Co, Owner; KB Home South Bay, Inc. Jeff McMullen, Developer). SNI: Five Wounds/Brookwood Terrace. CEQA: Mitigated Negative Declaration.
PDC03-103 - District 3**

- 12.1 (e) PUBLIC HEARING on Tentative Approval of the following items located on the west side of Highway 101 between Sunny Court and Kelly Court on an approximately 8-acre site. (California Cheese Co., Owner/KB Home Family, Applicant).**
- (1) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation on an 8-acre site from Light Industrial to Medium Density Residential (8-16 DU/AC) on 7 acres and Public Park/Open Space on 1 acre, for property located on the west side of Highway 101 between Sunny Court and Kelly Court on approximately 8-acre site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of Medium Density Residential (8-16 DU/AC) on 7 acres and Public Park/Open Space on 1 acre (7-0-0).
GP03-03-15 - District 3**
- (2) PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 80 single-family detached residences on a 8.0 gross acre site. CEQA: Mitigated Negative Declaration, PDC03-093. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of A(PD) Planned Development Zoning District to allow up to 80 single-family detached residences on a 8 gross acre site (5-2-0; Levy and Zito opposed).
PDC03-103 - District 3**

Documents Filed: (1) Memorandum from Council Member Chavez, dated December 7, 2004, recommending approval of the Planning Commission's recommendation. (2) Memorandum from Director of Planning, Building and

11.5/12.1 (Cont'd.)

Code Enforcement Stephen Haase, dated November 23, 2004, recommending approval of the rezoning. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number GP03-03-15 and PDC03-103, dated October 27, 2004, recommending approval of the planned development rezoning.

Action: Mayor Gonzales opened the Public Hearing. There were no public speakers. Mayor Gonzales closed the Public Hearing. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, Ordinance No. 27310, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Bonita Avenue and Sunny Court to A(PD) Planned Development Zoning District", was passed for publication and. Council tentatively approved Council Member Chavez memorandum, dated December 7, 2004, recommending approval of the Planning Commission's recommendation to; (1) Approve the proposed General Plan amendment with the following change: Designate the open space with a floating park designation on the site, (2) Approve proposed Planned Development Rezoning with the following conditions: (a) Explore development of a .9+/- acre park located at the intersection of Sunny Court and Bonita during the PD Permit phase, (b) Acceptance of the developer's offer to develop traffic calming elements along Bonita Avenue and perform additional operational improvements at the intersection of Bonita Avenue and San Antonio Street, (c) Acceptance of the developer's contribution to fully fund signal upgrades at the McLaughlin Avenue and William Street intersection, and (d) Approve the Planning Commission change to condition number 1, that states, "the setback for units on private drives for living area to perimeter lot line shall correspond with the setback of buildings on the adjacent property with a maximum setback of 15 feet for the satisfaction of the Director of Planning, Building, and Code Enforcement." (10-0-1). Absent: Gregory.

- (f) **PUBLIC HEARING on Tentative Approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Light Industrial with Mixed Industrial Overlay to High Density Residential (25-50 DU/AC) for property bounded by Highway 87, Curtner Avenue, and Canoas Garden Avenue on a 8.3-acre site. (City of San José, Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Zito Absent).**

GP03-06-01 - District 6

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 23, 2004, recommending approval of the General Plan Amendment.

12.1(f) (Cont'd.)

Action: Mayor Gonzales opened the Public Hearing and there were no public speakers. Mayor Gonzales closed the public hearing. Upon motion by Council Memberr Chavez, seconded by Vice Mayor Dando, and unanimously carried, Staff/Planning Commission recommendation was tentatively approved. (10-0-1). Absent: Gregory.

- (g) **PUBLIC HEARING on Tentative Approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Public/Quasi-Public (2.8 acres) and Office (2.1 acres) to Transit Corridor Residential (20+ DU/AC) for property located on the southwest corner of Curtner Avenue and Canoas Garden Avenue on a 4.9-acre site. (Santa Clara Valley Transportation Authority et al, Owner/City of San José, Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Zito Absent).**

GP03-06-02 - District 6

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 23, 2004, recommending approval of the General Plan Amendment. (2) Housing Opportunities Study Phase III General Plan Report on Project File Number GP03-06-02(HOS III), dated November 12, 2004, recommending approval of the General Plan Amendment.

Action: Mayor Gonzales opened the Public Hearing and there were no public speakers. Mayor Gonzales closed the public hearing. Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, Staff/Planning Commission recommendation tentatively approved. (10-0-1). Absent: Gregory.

- (h) **PUBLIC HEARING on and consideration of Tentative Approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Combined Industrial/Commercial to Public Park/Open Space for property bounded by Auzerais Avenue, Sunol Street, West Home Street and Los Gatos Creek on a 6.7-acre site. (Owners, various/City of San José, Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Zito Absent).**

GP03-06-07 - District 6

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 23, 2004, recommending approval of the General Plan Amendment. (2) Housing Opportunities Study Phase III General Plan Report on Project File Number GP03-06-07 (HOS III), dated November 12, 2004, recommending approval of the General Plan Amendment.

12.1(h)(Cont'd.)

Action: Mayor Gonzales opened the Public Hearing and there were no public speakers. Mayor Gonzales closed the public hearing. Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, Staff/Planning Commission recommendation tentatively approved. (10-0-1). Absent: Gregory.

- (i) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Heavy Industrial to Industrial Park for property located on the northwest corner of Savaker Street and Sunol Street on a 5.1-acre site. (Owners, various/City of San José, Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Zito Absent).**

GP03-06-08 - District 6

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 23, 2004, recommending approval of the General Plan Amendment. (2) Housing Opportunities Study Phase III General Plan Report on Project File Number GP03-06-08 (HOS III), dated November 12, 2004, recommending approval of the General Plan Amendment.

Action: Mayor Gonzales opened the Public Hearing and there were no public speakers. Mayor Gonzales closed the public hearing. Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, Staff/Planning Commission recommendation tentatively approved. (10-0-1). Absent: Gregory.

- (j) **Public Hearing on the following items located at the west side of North White Road and 300 feet south of McKee Road (253 and 271 North White Road) on a 1.38-acre site (Ali Kalbali, Owner/Applicant).**

- (1) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential designation (8 DU/AC) to Neighborhood/Community Commercial. CEQA: Mitigated Negative Declaration.**

GP04-05-04 - District 5

- (2) **PUBLIC HEARING ON CONVENTIONAL REZONING from R-1-8 Residential Zoning District to CP Commercial Pedestrian Zoning District to allow commercial/retail uses. CEQA: Mitigated Negative Declaration.**

C04-083 - District 5

Documents Filed: None.

Action: This item was continued to December 14, 2004.

12.1(k)(Cont'd.)

- (k) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to High Density Residential (25-50 DU/AC) for property located on the southeast corner of Senter Road and Needles Drive (1870 and 1888 Senter Road) on a 6.21-acre site. (DDD Partners, Owner/Henry Cord, Applicant). SNI: Tully/Senter. CEQA: Mitigated Negative Declaration.
GP03-07-09 - District 7**

Documents Filed: None.

Action: This item was continued to December 14, 2004.

- (l) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to General Commercial for property located on the north side of Story Road (915 Story Road) approximately 720 feet southwesterly of McLaughlin Avenue on a 19.59-acre site. (Hewlett-Packard, Owner/Jerry Strangis, Applicant). CEQA: Mitigated Negative Declaration.
GP03-07-10 - District 7**

Documents Filed: None.

Action: This item was continued to December 14, 2004.

- 12.2 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Medium High Density Residential (12-25 DU/AC) with a Floating Public Park/Open Space for property located at the south side of Berryessa Road, east of Jackson Avenue on a 2.5-acre site. (Grace R. Nola Trustee et al, Owner/City of San José, Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Zito Absent).
GP03-04-07 - District 4**

Documents Filed: None.

Discussion: Council Member Reed requested staff to continue working with surrounding neighborhood issues.

Action: Mayor Gonzales opened the Public Hearing and there were no public speakers. Mayor Gonzales closed the public hearing. Upon motion by Council Member Reed, seconded by Council Member Cortese, and unanimously carried, this item was deferred to a future General Plan Hearing, date to be determined. (10-0-1). Absent: Gregory.

- 12.3 (a) **PUBLIC HEARING ON APPEAL OF PLANNING COMMISSION'S CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT (EIR) to allow the expansion of medical facility uses on the Regional Medical Center of San José 34.4 gross-acre site. The project proposes a General Plan Amendment (GP03-05-10) on 17.2-acres of the site from Medium-High Density Residential (12-25 DU/AC) on 7.9 acres, Office on 4.7 acres, and Neighborhood/ Community Commercial on 4.6 acres to Public/Quasi-Public, and a Planned Development Rezoning (PDC03-093) to allow up to 1,030,000 square feet of medical facility uses on the site, including a new emergency department, trauma center, a roof-top helipad, intensive care facilities, women's and infant services, and medical offices. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of the Final EIR prepared for this project which has been completed in compliance with and conforms to the requirements of CEQA and that the Final EIR reflects the City's independent judgment and analysis (7-0-0).**

Documents Filed: Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated December 3, 2004, recommending the item be dropped.

Action: This item was dropped.

- (b) **Public Hearing on and consideration of Tentative Approval of General Plan Amendment request to change the Land Use/Transportation Diagram designations from Medium High Density Residential (12-25 DU/AC) on 7.9 acres, Office on 4.7 acres, and Neighborhood/Community Commercial on 4.6 acres to Public/Quasi Public on 17.2 acres. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval for Public/Quasi-Public on 17.2 acres (7-0-0).
GP03-05-10 - District 5**

Documents Filed: None.

Action: This item was continued to December 14, 2004.

Items 11.2 and 12.3(c) were heard concurrently.

- 11.2 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located on the southwest corner of McKee Road and North Jackson Avenue, from A-Agriculture, CG – Commercial General, CO Commercial Office, A(PD) Planned Development, and R-2 Two Family Residence Districts to A(PD) Planned Development Zoning District, to allow up to 1,030,000 square feet of medical facility uses including a new emergency department, trauma center, a roof-top helipad, intensive care facilities, women's and infant services, and medical offices on a 34.2 gross acre site. (San José Healthcare System, LP, Owner). CEQA: Resolution to be adopted.. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

PDC 03-093 – District 5

- (c) PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING from A Agriculture, CG Commercial General, CO Commercial Office, A(PD) Planned Development, R-2 Two Family Residence Districts to A(PD) Planned Development Zoning District, to allow up to 1,030,000 square feet of medical office uses on a 34.4 gross-acre site. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval A(PD) Planned Development Zoning District to allow up to 1,030,000 square feet of medical office uses on a 34.4 gross-acre site (7-0-7).**

PDC03-093 - District 5

Documents Filed: None.

Action: This item was continued to January 25, 2005.

Items 5.2 and 12.4 heard concurrently.

- 5.2 (a) Approve a Memorandum of Understanding with the Almaden Youth Association (AYA) setting forth the basis for negotiations of an agreement with AYA for design, construction, maintenance, and operation of the proposed McKean Sports Complex.**
- (b) Direction to the City Manager to return to the City Council with the final agreement between the City of San José and the Almaden Youth Association for the design, construction, maintenance, and operation of the proposed McKean Sports Complex; and**
- (c) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10:**
- (1) Establish an appropriation in the amount of \$739,000 to the Department of Parks, Recreation and Neighborhood Services for the McKean Road Youth Sports Complex Project; and**
- (2) Decrease the Reserve: Sports Field Development by \$739,000.**

CEQA: Resolution to be adopted. (City Manager's Office)

5.2/12.4 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated December 2, 2004, recommending approval of the Memorandum of Understanding. (2) Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley and Budget Director Larry D. Lisenbee, dated December 5, 2004, recommending adoption of the ordinance amendments. (3) Letter from Bob Caletti, dated December 1, 2004, in opposition of the recommendations. (4) 61 letters from the community in support of the recommendations.

Action: Upon motion by Vice Mayor Dando, seconded by Vice Mayor Chavez, and unanimously carried, the Memorandum of Understanding and staff direction were approved and Ordinance No. 27311, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund for Parks Purposes, Council District No. 10 for the McKean Road Youth Sports Complex; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0-1). Absent: Gregory.

- 12.4 (a) PUBLIC HEARING ON APPEAL OF PLANNING COMMISSION'S CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT (EIR) to allow certain limited interim outdoor recreational uses on public property that are consistent with the long-term character of the South Almaden Valley Urban Reserve for property located on the north side of McKean Road, approximately 1,500 feet westerly of Fortini Road on a 35.4-acre site. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of the Final EIR prepared for this project which has been completed in compliance with and conforms to the requirements of CEQA and that the Final EIR reflects the City's independent judgment and analysis (6-1-0; Zito opposed).**

Documents Filed: (1) Memorandum from Vice Mayor Dando, dated December 3, 2004, recommending direction contained therein. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated December 7, 2004, recommending the adoption of the resolution. (3) Transmittal memorandum from Secretary of the Planning Commission Stephen M. Haase, dated November 23, 2004, providing the final staff report and planning commission recommendations.

Action: Mayor Gonzales opened the Public Hearing and there were no public speakers. Mayor Gonzales closed the public hearing. Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, the appeal was denied and the Environmental Impact Report was certified. Noes: LeZotte.

5.2/12.4 (Cont'd.)

- (b) **Public Hearing on and consideration of Tentative Approval of General Plan Amendment request to amend the text to allow certain limited interim outdoor recreational uses on public property that are consistent with the long-term character of the South Almaden Valley Urban Reserve for property located on the north side of McKean Road, approximately 1,500 feet westerly of Fortini Road on a 35.4-acre site. (San José Unified School District, Owner/City Council, Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends denial to amend the text of the General Plan to allow certain limited interim outdoor recreational uses on public property that are consistent with the long-term character of the South Almaden Valley Urban Reserve (5-2-0 motion to deny; Platten and Campos opposed)**
GPT01-10-02 - District 10

Documents Filed: (1) Memorandum from Vice Mayor Dando, dated December 3, 2004, recommending direction contained therein. (2) Memorandum from Secretary of the Planning Commission Stephen M. Haase, dated December 1, 2004, recommending tentative approval of the General Plan Amendment. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number GPT01-10-02, dated November 23, 2004, recommending approval of the tentative approval of the General Plan Amendment. (4) Letter from Local Agency Formation Commission of Santa Clara County (LAFCO), dated December 3, 2004, providing a response to the City of San José's response to LAFCO.

Public:Comments Mayor Gonzales opened the public hearing. Maurice Adams, Niki Lamb, George Stepanenko, Lizanne Reynolds, Bob Boydston, Susanne Wilson, Robert Eltgroth, Carol Hallet, Robert Hughes, Doug Turk, Lynn Stuart, Carl Rand, Chris Morris, Mark A. Erickson, and Terry Erwin spoke in opposition to the proposed sports complex.

Bob Farnquist, Terry Hardtke, Leslie Reynolds, Cynthis Rosas, Linda Vaile, Paul Yllana, Boots Del Biaggio, Malcolm Bordelon, Alex Stuart, Paul Wysocki, Randy Meadows, tiffany Kim, Kimberly Rodriguez, Robin Myers, Ross MacPhee, Shawn Van Bockel, Jeff Pine, Rick George, Juan Flores, Ruben Reyes, Bob Schill, Alyssa White, Frank Lisowski, Danielle Landre, Jessica Landre, Tom Geraghty, Bindy Ugenti, Paul Ugenti, Frank Ross, Monica Geraghty, Michael Beaudramp, Patty Lewis, Kevin Jones, Scott Raley, Deb Steinkoff, David Conmp, Spike Narayan, Alexi Lalas, Susie Laughlin, John Jussen, Jim Cunnen, Daniel McCall, Greg Asplund, Mark Middleton, Tony Gregarich, Patrick Lemy, Wanda Field, Kyle Oubre, Rich Oubre, Scott Oubre, Jodie Oubre, Scott Kuechle, Yuri Kuechle, Mark Heinen, Mikey Reickard, Cody Reickard, Andrew Bosomworth, Nicholas Polussa, Garrett Hall, Erik Kirchick, Dean Correa, Scott McLaughlin, David Silva, Michael Hirahara, Mike Chavez, Dan Hinz, Michael Brass, Mike Reickard, Kyle Reickard, Louis Montini, Monique Bosomworth, Dennis McCoy, Steve Trimberger, Carol Martinez, Suzy Shields, Goerge Bettisworth, Matt Kamkar, Brad Bosomworth,

5.2/12.4 (Cont'd.)

Denise Kennedy, Matt Montini, Brett Kennedy, Joey Kennedy, Megan Kennedy, Darcy Kennedy, Tom Holtzanger, Michael Trimberger, John Politoski, Stan Shiskari, Kevin Mohs, Jaya Tharayil, Thomas Tharayil, Shanna Harbridge, Dan Smyth, Sam Shakir, Terry Thompson, Dan Hall, Kim Karabatsos, Vicki Wagner, Don Gagliardi, Rarhid Adibi, Sean Ciappa, Ivo Landre, Michelle Landir, Gary Rummelhoff, Nick Petredis, Kevin Lamb, Jeff LaPlante spoke in support of the proposed sports complex.

Discussion: Mayor Gonzales asked staff to return to Council with clarification as to the length in terms of the lease agreement and a timeline of the Almaden Youth Association's fundraising plan.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, Council tentatively approved Council Member Dando's memorandum, dated December 3, 2004, recommending; (1) Approval of the Planning Staff report to certify the Environmental Impact Report (EIR) and approve the General Plan Amendment, (2) Approve the recommendation of both staff reports regarding appropriations of funds and authorizing the City Manager to execute a Memorandum of Understanding (MOU) with the Almaden Youth Association (AYA), (3) Direct staff to begin discussions with AYA, San José Unified School District (SJUSD) and the Santa Clara Valley Water District (SCVWD) for the first phase of the project, (4) Direct staff to transfer \$500,000 from District 10 Parks and Acquisition Fund to the Department of Parks, Recreation and Neighborhood Services for design, construction management, roadway and frontage improvements.

(1) Vice Mayor Dando read into record the Statement of Overriding Considerations.

(2) Staff directed to return to Council with clarification as to the length in terms of the lease agreement and a timeline of the Almaden Youth Association's fundraising plan.

12.5 Continuation of adoption of a resolution approving all General Plan amendment actions to December 14, 2004. (Planning, Building and Code Enforcement)

Documents Filed: None.

Action: This item was continued to December 14, 2004.

OPEN FORUM

1) Daniel McCall spoke on mental health issues.

ADJOURNMENT

The meeting was adjourned in memory of George Kukar at 10:27 P.M.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, C.M.C, CITY CLERK
EW/12-7-04